

EXHIBIT E



Town of **LYNNFIELD**



BOARD OF HEALTH

December 9, 2003

Thomas Mullen, Esq.
4 Avon Street
Wakefield, MA 01880

RE: Article 11, Lynnfield By-Law

Dear Tom:

At the regular meeting of the Board of Health on December 8th, the BOH met with the Citizens for Lynnfield, Inc. to discuss the proposed bylaw that was adopted at Town Meeting. Enclosed please find a document submitted by the Citizens for Lynnfield, Inc. with proposed language for the bylaw. Kindly review and make comments.

The next regular meeting will be January 6th, 2004 at 5:30pm at Lynnfield Town Hall in the Voting Room.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Nugent".

James Nugent
Health Director

JN:ad

Enclosure

TOL 1046

Citizens for Lynnfield, Inc.
27 Blue Jay Road
Lynnfield, MA 01940

October 29, 2003

Mr. James Nugent
Lynnfield Board of Health
Lynnfield Town Hall
55 Summer Street
Lynnfield, MA 01940

Re: Board of Health Regulations

Dear Mr. Nugent,

As a follow up to the overwhelming approval of Article 11, Lynnfield diesel fuel By-Law, I have attached a copy of how that By-Law and related proposed regulations might look.

In addition, I have enclosed a copy of how the diesel fuel regulations would look if we simply incorporated the mandate from the townspeople and adopted the entire mandate (By-Law and regulations) as Board of Health Regulations for the Town of Lynnfield.

I look forward to seeing you on Monday night, November 3, 2003.

Thank you for your help.

Sincerely,



Carl A. LaGreca, President
Citizens for Lynnfield, Inc.

TOWN OF LYNNFIELD, MASSACHUSETTS

SECTION 27 LYNNFIELD DIESEL FUEL BY-LAW

No commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel ("diesel burning site") shall be constructed, built, operated or maintained in the Town of Lynnfield without a diesel burning site assignment as set forth herein and without first obtaining from the Town of Lynnfield Board of Health an operating permit for the right to construct, operate and maintain a diesel burning site and in any case, no diesel burning site as defined herein shall be established within a proximity of one thousand (1,000) feet of a residential area.

No commercial, industrial or business site within the Town of Lynnfield shall be used, established, maintained or operated until such site has been assigned by the Board of Health of the Town of Lynnfield in accordance with M.G.L. Chapter 111, Section 31C and Section 143. The assignment of a place as a diesel burning site shall be subject to such limitations with respect to the extent, character, and nature of the operations as may be necessary to protect the public health. The Board of Health may prohibit any diesel burning site as a whole whenever, by any of the methods employed, it has become or may become a nuisance, offensive, or possibly injurious to the public health or safety.

All diesel burning sites operating within the Town of Lynnfield at the time of adoption of this By-Law are exempt from the requirements of this By-Law. Any expansion of or addition to such existing site will be subject to the requirements of this By-Law.

The Board of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this By-Law.

Pursuant to Section 27, Chapter Five, Section II
Lynnfield Diesel Fuel By-Law
Board of Health Regulations Governing Lynnfield Diesel Fuel By-Law

As used in this By-Law:

Residential Area - means any area or land mass containing one (1) or more physical structures, the primary purpose of which is to serve as a residence or living area for one or more residents and/or citizens of the Town of Lynnfield, Massachusetts.

Site - means any property located within the Town of Lynnfield, including, without limitation, a plant building or other type of facility on such property, whether used or operated by a person, corporation, partnership, limited liability company, limited liability partnership, trust, political subdivision, agency or any other entity, including a foreign entity.

Use and burning of diesel fuel shall mean the use or burning of diesel fuel in, without limitation, a plant, building or other facility on the site, or in vehicles which move around such site. The following are exempted from this provision: vehicles or equipment being used solely on a temporary basis for construction, expansion, repair or other similar purposes, passenger automobiles, light duty trucks, vans (including an SUV), fire and other emergency vehicles.

Passenger automobile is any four-wheeled vehicle used as a means of transportation that has an unloaded gross vehicle weight of 6,000 pounds or less and that is manufactured primarily for use on public streets, road and highways. The term passenger automobile includes any part, component, or other item that is physically attached to the automobile or is traditionally included in its purchase price.

Light duty trucks, vans (including an SUV) is any, four-wheeled vehicle used as a means of transportation that has a gross loaded vehicle weight of 6,000 pounds or more. Gross loaded vehicle weight of 6,000 pounds includes passenger and cargo.

Regular Use and Operation of Vehicles Using or Burning Diesel Fuel - shall mean the regular movement or operation of more than five (5) diesel fueled vehicles at a site including five (5) vehicle trips to such site during any normal business day and five (5) vehicle trips from such site in any normal business day.

Example: Vehicle Trips

- 1.) Site X is classified as a bus terminal. The buses are powered by diesel fuel. On Thursday, a normal business day, Bus A enters the terminal from an offsite location. Bus B, which is parked at the site for two days is driven off the site.

Result: The entrance of Bus A onto the site constitutes one (1) vehicle trip, the existing of Bus B, from such site shall constitute one (1) vehicle trip.

Should these trips normally account for more than 5 such trips to and from such site on a normal business day, the bus terminal shall be classified as a diesel fuel burning facility and shall be subject to the provisions of these Board of Health Regulations.

2. A company proposes to open a large retail home products distribution center in the Town of Lynnfield. Historical normal operations at other locations for this Company show that each location requires 6 deliveries daily of products transported by of 18 wheel diesel powered trucks. The trucks enter and leave the same day. Such activity shall constitute regular use and such site shall be classified as a diesel fuel burning facility and shall be subject to the provisions of these Board of Health Regulations.

Pursuant to the Town of Lynnfield Board of Health Regulations

Offensive Trades, Occupations and Practices Section 1, and M.G.L. Chapter 111, Section 31C and Section 143.

4.) Diesel Fuel Regulations

No commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel (diesel burning site) shall be constructed, built, operated or maintained in the Town of Lynnfield without a diesel burning site assignment as set forth herein and without first obtaining from the Town of Lynnfield Board of Health an operating permit for the right to construct, operate and maintain a diesel burning site and in any case, no diesel burning site as defined herein shall be established within a proximity of one thousand (1,000) feet of a residential area.

No commercial, industrial or business site within the Town of Lynnfield shall be used, established, maintained or operated until such site has been assigned by the Board of Health of the Town of Lynnfield in accordance with M.G.L. Chapter 111, Section 31C and Section 143. The assignment of a place as a diesel burning site shall be subject to such limitations with respect to the extent, character, and nature of the operations as may be necessary to protect the public health. The Board of Health may prohibit any diesel burning site as a whole whenever, by any of the methods employed, it has become or may become a nuisance, offensive, or possibly injurious to the public health or safety.

All diesel burning sites operating within the Town of Lynnfield at the time of adoption of this regulation are exempt from the requirements of this regulation. Any expansion of or addition to such existing site will be subject to the requirements of this regulation.

As used in this Regulation:

Residential Area - means any area or land mass containing one (1) or more physical structures, the primary purpose of which is to serve as a residence or living area for one or more residents and/or citizens of the Town of Lynnfield, Massachusetts.

Site - means any property located within the Town of Lynnfield, including, without limitation, a plant building or other type of facility on such property, whether used or operated by a person, corporation, partnership, limited liability company, limited liability partnership, trust, political subdivision, agency or any other entity, including a foreign entity.

Use and burning of diesel fuel shall mean the use or burning of diesel fuel in, without limitation, a plant, building or other facility on the site, or in vehicles which move around such site. The following are exempted from this provision: vehicles or equipment being used solely on a temporary basis for construction, expansion, repair or other similar purposes, passenger automobiles, light duty trucks, vans (including an SUV), fire and other emergency vehicles.

Passenger automobile is any four-wheeled vehicle used as a means of transportation that has an unloaded gross vehicle weight of 6,000 pounds or less and that is manufactured primarily for use on public streets, road and highways. The term passenger automobile includes any part, component, or other item that is physically attached to the automobile or is traditionally included in its purchase price.

Light duty trucks, vans (including an SUV) is any, four-wheeled vehicle used as a means of transportation that has a gross loaded vehicle weight of 6,000 pounds or more. Gross loaded vehicle weight of 6,000 pounds includes passenger and cargo.

Regular Use and Operation of Vehicles Using or Burning Diesel Fuel - shall mean the regular movement or operation of more than five (5) diesel fueled vehicles at a site including five (5) vehicle trips to such site during any normal business day and five (5) vehicle trips from such site in any normal business day.

Example: Vehicle Trips

- 1.) Site X is classified as a bus terminal. The buses are powered by diesel fuel. On Thursday, a normal business day, Bus A enters the terminal from an offsite location. Bus B, which is parked at the site for two days is driven off the site.

Result: The entrance of Bus A onto the site constitutes one (1) vehicle trip, the exiting of Bus B, from such site shall constitute one (1) vehicle trip.

Should these trips normally account for more than 5 such trips to and from such site on a normal business day, the bus terminal shall be classified as a diesel fuel burning facility and shall be subject to the provisions of these Board of Health Regulations.

2. A company proposes to open a large retail home products distribution center in the Town of Lynnfield. Historical normal operations at other locations for this Company show that each location requires 6 deliveries daily of products transported by 18 wheel diesel powered trucks. The trucks enter and leave the same day. Such activity shall constitute regular use and such site shall be classified as a diesel fuel burning facility and shall be subject to the provisions of these Board of Health Regulations.

TOWN OF LYNNFIELD, MASSACHUSETTS

SECTION 27 LYNNFIELD DIESEL FUEL BY-LAW

No commercial, industrial or business property that involves in any way the burning or use of diesel fuel or involves the regular use and operation of vehicles using or burning diesel fuel ("diesel burning site") shall be constructed, built, operated or maintained in the Town of Lynnfield without a diesel burning site assignment as set forth herein and without first obtaining from the Town of Lynnfield Board of Health an operating permit for the right to construct, operate and maintain a diesel burning site and in any case, no diesel burning site as defined herein shall be established within a proximity of one thousand (1,000) feet of a residential area.

No commercial, industrial or business site within the Town of Lynnfield shall be used, established maintained or operated until such site has been assigned by the Board of Health of the Town of Lynnfield in accordance with M.G.L. Chapter 111, Section 31C and Section 143. The assignment of a place as a diesel burning site shall be subject to such limitations with respect to the extent, character, and nature of the operations as may be necessary to protect the public health. The Board of Health may prohibit any diesel burning site as a whole whenever, by any of the methods employed, it has become or may become a nuisance, offensive, or possibly injurious to the public health or safety.

All diesel burning sites operating within the Town of Lynnfield at the time of adoption of this By-Law are exempt from the requirements of this By-Law. Any expansion of or addition to such existing site will be subject to the requirements of this By-Law.

The Board of Health shall adopt rules and regulations necessary and reasonable to implement the provisions of this By-Law.